

market administrator to suspend the designation of the plant for failure to meet the requirements of §1002.26(b) only if the absence of such approval continues for more than 15 days.

(k) The designation shall be canceled effective on the first of the month following three consecutive months if in the absence of this designation milk received from dairy farmers and units at the plant would have been classified and priced under another order with a provision for marketwide equalization and if in each of such months the percentage of milk received from dairy farmers and units at the plant which is classified as Class I-A and disposed of in the marketing area defined in such other order is greater than the percentage of such milk so classified and disposed of in this marketing area.

(l) The designation of any pool plant pursuant to §1002.24 or any pool unit pursuant to §1002.25(e) shall be canceled unless 5 percent or more of the pool milk received from producers at such plant or by such unit during each of the months of December and January, and 10 percent during each of the months of September through November, is utilized as Class I-A milk unless the percentage has been revised pursuant to paragraph (h) of this section.

[33 FR 8201, June 1, 1968, as amended at 56 FR 5322, Feb. 11, 1991]

§ 1002.28 Temporary pool plants.

Except for plants which, pursuant to paragraph (f) of this section, are not eligible for designation, any plant not designated pursuant to §1002.24 shall automatically be designated a pool plant in accordance with provisions of paragraphs (a) through (e) of this section: *Provided*, That no plant shall be a pool plant pursuant to this section if, in the absence of this provision, milk received from dairy farmers and units at the plant would be classified and priced under another order with a provision for marketwide equalization, and if the percentage of the milk received from dairy farmers and units at the plant which is classified in Class I-A and disposed of in the marketing area defined in such other order is greater than the percentage of such milk so classified and disposed of in this marketing area: *Provided, further*,

That for purposes of the computations of percentages set forth in this section, skim milk and butterfat in filled milk shall be excluded from skim milk and butterfat classified in Class I-A and Class I-B.

(a) For any of the months of January through March and July through December, any plant at which 25 percent or more of the combined receipts of skim milk and butterfat in milk from dairy farmers and units is classified as Class I-A in the marketing area or as Class I-A on the basis of a transfer to a pool plant on some basis other than the failure to account for such milk shall automatically be designated a pool plant for such month: *Provided*, That at the option of the handler the plant shall not be a pool plant if less than 25 percent of such combined receipts of skim milk and butterfat in milk from other than pool units is classified in such Class I-A.

(b) For any of the months of April, May, or June, any plant at which during the preceding period of October, November, and December either (1) no milk was received from dairy farmers or units, or (2) 60 percent or more of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units was classified in Class I-A in the marketing area or as Class I-A on the basis of a transfer to a pool plant, on some basis other than the failure to account for such milk, shall automatically be designated a pool plant for any of such months of April, May, or June in which 10 percent or more of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units is classified in Class I-A in the marketing area or as Class I-A on the basis of a transfer to a pool plant, on some basis other than the failure to account for such milk: *Provided*, That at the option of the handler the plant shall not be a pool plant if less than 10 percent of combined receipts of skim milk and butterfat in such milk from other than pool units as classified in such Class I-A.

(c) Any plant which is a pool plant in any of the months of April, May, or June on the basis of paragraph (b) of

this section or on the basis of paragraph (d) of this section and in the latter case, the percentage of combined receipts of skim milk and butterfat in milk from dairy farmers and units classified in Class I-A in the marketing area or as Class I-A on the basis of a transfer to a pool plant, is at least as great as the market percentage of pool milk in Classes I-A and I-B for the same month of the previous year, shall be a pool plant in any of the months of July through March following in which 60 percent or more of the combined receipts of skim milk and butterfat in milk received at the plant from dairy farmers and units is classified in Class I-A, Class I-B, or Classes I-A and I-B combined.

(d) Any plant which for any month is not a pool plant because of failure to meet the requirements of paragraph (a), (b), or (c) of this section shall be a pool plant in any month in which a daily average of at least 800 pounds of combined receipts of skim milk and butterfat in milk received from dairy farmers and units is classified as Class I-A in the marketing area or as Class I-A on the basis of a transfer to a pool plant, on some basis other than failure to account for such milk and if the percentage of combined receipts of skim milk and butterfat in milk classified as Class I-A and Class I-B is at least as great as the market percentage of pool milk in Classes I-A and I-B for the same month in the preceding year: *Provided*, That at the option of the handler, the plant shall not be a pool plant if none of the skim milk or butterfat in such milk from other than pool units is classified in such Class I-A: *Provided further*, That such plant shall not be a pool plant on the basis of this paragraph if it is located in the 401 miles and over freight zone.

(e) A plant whose regular pool plant designation has been canceled at the request of the handler on the first of any of the months of August through November shall be a pool plant in any month through November 30 following such cancellation if the percentage of the combined receipts of skim milk and butterfat in milk received from dairy farmers and units classified in Class I-A, Class I-B or Classes I-A and

I-B combined is at least as great as the market percentage of pool milk in Classes I-A and I-B for the same month in the preceding year unless such plant qualifies as a pool plant under an other order with a provision for marketwide equalization.

(f) A plant shall not be a pool plant on the basis of this section for the periods and under the conditions set forth in paragraphs (f)(1) and (2) of this section:

(1) If the pool plant designation was canceled on the first of August, September, October, or November pursuant to §1002.27(a), for the period through November 30 except as specified in paragraph (e) of this section.

(2) If the pool plant designation was canceled pursuant §1002.27 for failure to meet the requirements of §1002.26(a), for the period from the date the cancellation was effective through the following June 30.

(g) At the time of announcing the uniform price for each month, the market administrator shall make public the location and name of the operator of any plant for which a report of receipts from dairy farmers was used in the computation of that uniform price.

[33 FR 8201, June 1, 1968, as amended at 34 FR 18604, Nov. 22, 1969; 41 FR 8367, Feb. 26, 1976]

§ 1002.29 Partial pool plants.

The following plants not designated pool plants pursuant to §§1002.24 and 1002.28, which plants distribute fluid milk products in the marketing area or transfer fluid milk products to a pool plant shall be designated partial pool plants:

(a) Plants set forth in §1002.28(f).

(b) Plants other than those set forth in paragraph (a) of this section which have some skim milk or butterfat in milk received from dairy farmers or nonpool units classified in Class I-A on some basis other than failure to account for such milk, except a plant which would otherwise qualify as a pool plant pursuant to §1002.28(d) but which has less than a daily average of 800 pounds of skim milk or butterfat in milk received from dairy farmers or